

---

By: **Frederick County Delegation**  
Introduced and read first time: February 7, 2003  
Assigned to: Environmental Matters

---

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County Commissioners - Zoning and Planning - Public Ethics**

3 FOR the purpose of establishing certain ethics requirements that relate to planning  
4 and zoning proceedings and apply to members of the Frederick County Board of  
5 County Commissioners and certain other persons; prohibiting certain campaign  
6 contributions by certain persons under certain circumstances; prohibiting a  
7 Board member from participating in certain planning and zoning proceedings;  
8 requiring the disclosure of certain ex parte communications made by certain  
9 persons; allowing a party of record in certain planning and zoning proceedings  
10 to submit certain affidavits; requiring the State Ethics Commission to direct  
11 and control the enforcement of this Act; requiring the County Manager to  
12 perform certain administrative functions and prepare certain reports;  
13 establishing certain requirements and procedures for judicial review of certain  
14 planning and zoning proceedings; establishing certain penalties for a violation of  
15 this Act; requiring certain persons to retain and make available certain  
16 documents for inspection; defining certain terms; providing for a delayed  
17 effective date; and generally relating to public ethics requirements in planning  
18 and zoning proceedings in Frederick County.

19 BY adding to  
20 Article - Election Law  
21 Section 13-504  
22 Annotated Code of Maryland  
23 (2003 Volume)

24 BY adding to  
25 Article - State Government  
26 Section 15-860 through 15-865, inclusive, to be under the new part "Part VIII.  
27 Frederick County - Special Provisions"  
28 Annotated Code of Maryland  
29 (1999 Replacement Volume and 2002 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
31 MARYLAND, That the Laws of Maryland read as follows:

Article - Election Law

13-504.

AS TO CONTRIBUTIONS TO THE FREDERICK COUNTY BOARD OF COUNTY COMMISSIONERS OR A CANDIDATE FOR THAT OFFICE, TITLE 15, SUBTITLE 8, PART VIII OF THE STATE GOVERNMENT ARTICLE MAY APPLY.

Article - State Government

PART VIII. FREDERICK COUNTY - SPECIAL PROVISIONS.

15-860.

(A) IN THIS PART VIII THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "APPLICANT" MEANS A PERSON OR BUSINESS ENTITY THAT FILES AN APPLICATION OR IS A TITLE OWNER OR CONTRACT PURCHASER OF LAND THAT IS THE SUBJECT OF AN APPLICATION.

(2) "APPLICANT" INCLUDES A PERSON THAT:

(I) 1. IS AN OFFICER OR DIRECTOR OF A CORPORATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; OR

2. HOLDS A 10% OR GREATER INTEREST IN THE OUTSTANDING COMMON STOCK OF THE CORPORATION;

(II) IS A PARTNER OR A LIMITED PARTNER OF A PARTNERSHIP DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; OR

(III) IS A MEMBER OF A LIMITED LIABILITY COMPANY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

(C) "APPLICATION" MEANS:

(1) AN APPLICATION FOR A ZONING MAP AMENDMENT AS PART OF A COMPREHENSIVE REZONING PROCEEDING OR A PIECEMEAL OR FLOATING ZONE REZONING PROCEEDING;

(2) AN APPLICATION FOR A MAP AMENDMENT TO THE COUNTY COMPREHENSIVE LAND USE PLAN;

(3) AN APPLICATION FOR A MAP AMENDMENT TO THE COUNTY WATER AND SEWERAGE PLAN;

(4) A REQUEST MADE UNDER ARTICLE 23A, § 9(C) OF THE CODE FOR THE BOARD TO APPROVE THE PLACEMENT OF ANNEXED LAND IN A ZONING CLASSIFICATION THAT ALLOWS A LAND USE THAT IS SUBSTANTIALLY DIFFERENT

1 FROM THE USE FOR THE LAND SPECIFIED IN THE COUNTY COMPREHENSIVE LAND  
2 USE PLAN; OR

3 (5) AN APPLICATION TO CREATE A DISTRICT OR EASEMENT OR OTHER  
4 INTEREST IN REAL PROPERTY AS PART OF AN AGRICULTURAL LAND PRESERVATION  
5 PROGRAM.

6 (D) "BOARD" MEANS THE BOARD OF COUNTY COMMISSIONERS FOR  
7 FREDERICK COUNTY.

8 (E) "BOARD MEMBER" INCLUDES A PERSON ELECTED OR APPOINTED TO THE  
9 BOARD OR A CANDIDATE WHO TAKES THE OATH OF OFFICE FOR THE BOARD.

10 (F) "BUSINESS ENTITY" MEANS:

11 (1) A SOLE PROPRIETORSHIP;

12 (2) A CORPORATION;

13 (3) A PARTNERSHIP; OR

14 (4) A LIMITED LIABILITY COMPANY.

15 (G) "CANDIDATE" MEANS A CANDIDATE FOR THE BOARD WHO BECOMES A  
16 MEMBER OF THE BOARD.

17 (H) "CONTRIBUTION" MEANS THE PAYMENT OR PROMISE OF PAYMENT OF  
18 MONEY OR PROPERTY, OR THE INCURRING OF A LIABILITY, TO A CANDIDATE OR A  
19 TREASURER OR POLITICAL COMMITTEE OF A CANDIDATE.

20 (I) "PARTNERSHIP" INCLUDES A GENERAL PARTNERSHIP, A LIMITED  
21 LIABILITY PARTNERSHIP, A LIMITED PARTNERSHIP, A LIMITED LIABILITY LIMITED  
22 PARTNERSHIP, OR A JOINT VENTURE.

23 (J) "PARTY OF RECORD" MEANS A PERSON THAT PARTICIPATED IN A  
24 PROCEEDING ON AN APPLICATION BEFORE THE BOARD BY APPEARING AT A PUBLIC  
25 HEARING OR FILING A STATEMENT IN AN OFFICIAL RECORD.

26 (K) "PENDENCY OF THE APPLICATION" MEANS ANY TIME BETWEEN THE  
27 ACCEPTANCE OF A FILING OF AN APPLICATION BY THE COUNTY DEPARTMENT OF  
28 PLANNING AND ZONING AND THE EXPIRATION OF 30 DAYS AFTER:

29 (1) THE BOARD HAS TAKEN FINAL ACTION ON THE APPLICATION; OR

30 (2) THE APPLICATION IS WITHDRAWN.

31 (L) "POLITICAL COMMITTEE" MEANS A COMMITTEE SPECIFICALLY CREATED  
32 TO PROMOTE THE CANDIDACY OF A BOARD MEMBER WHO IS RUNNING FOR AN  
33 ELECTIVE OFFICE.

1 (M) "TREASURER" HAS THE MEANING STATED IN § 1-101 OF THE ELECTION  
2 LAW ARTICLE.

3 15-861.

4 (A) AN APPLICANT MAY NOT MAKE A CONTRIBUTION TO A BOARD MEMBER  
5 DURING THE PENDENCY OF THE APPLICATION.

6 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AFTER AN  
7 APPLICATION HAS BEEN FILED, A BOARD MEMBER MAY NOT VOTE OR PARTICIPATE  
8 IN ANY WAY IN THE PROCEEDINGS ON THE APPLICATION IF THE MEMBER OR THE  
9 TREASURER OR POLITICAL ACTION COMMITTEE OF THE MEMBER RECEIVED A  
10 CONTRIBUTION FROM THE APPLICANT DURING THE PENDENCY OF THE  
11 APPLICATION.

12 (C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, A BOARD MEMBER  
13 MAY PARTICIPATE IN A COMPREHENSIVE ZONING OR REZONING PROCEEDING.

14 15-862.

15 (A) AN EX PARTE COMMUNICATION BETWEEN AN APPLICANT AND A BOARD  
16 MEMBER CONCERNING A PENDING APPLICATION SHALL BE DISCLOSED AS  
17 REQUIRED IN THIS SECTION.

18 (B) AN APPLICANT WHO COMMUNICATES EX PARTE WITH A BOARD MEMBER  
19 CONCERNING A PENDING APPLICATION DURING THE PENDENCY OF THE  
20 APPLICATION SHALL FILE WITH THE COUNTY MANAGER A SEPARATE DISCLOSURE  
21 FOR EACH COMMUNICATION WITHIN THE LATER OF 7 DAYS AFTER THE  
22 COMMUNICATION WAS MADE OR RECEIVED.

23 (C) A BOARD MEMBER WHO COMMUNICATES EX PARTE WITH AN APPLICANT  
24 CONCERNING A PENDING APPLICATION DURING THE PENDENCY OF THE  
25 APPLICATION SHALL FILE WITH THE COUNTY MANAGER A SEPARATE DISCLOSURE  
26 FOR EACH COMMUNICATION WITHIN THE LATER OF 7 DAYS AFTER THE  
27 COMMUNICATION WAS MADE OR RECEIVED.

28 15-863.

29 AT ANY TIME BEFORE FINAL ACTION ON AN APPLICATION, A PARTY OF RECORD  
30 MAY FILE WITH THE COUNTY MANAGER AN AFFIDAVIT INCLUDING COMPETENT  
31 EVIDENCE OF:

32 (1) A CONTRIBUTION BY AN APPLICANT COVERED UNDER § 15-861 OF  
33 THIS PART VIII; OR

34 (2) AN EX PARTE COMMUNICATION COVERED UNDER § 15-862 OF THIS  
35 PART VIII.

1 15-864.

2 (A) IN THE ENFORCEMENT OF THIS PART VIII, THE COUNTY MANAGER SHALL  
3 BE SUBJECT TO THE DIRECTION AND CONTROL OF THE STATE ETHICS COMMISSION  
4 OR ITS EXECUTIVE DIRECTOR AND, UNLESS OTHERWISE SPECIFICALLY DIRECTED  
5 BY THE ETHICS COMMISSION OR ITS EXECUTIVE DIRECTOR, MAY ONLY:

6 (1) RECEIVE FILINGS;

7 (2) MAINTAIN RECORDS;

8 (3) REPORT VIOLATIONS; AND

9 (4) PERFORM OTHER MINISTERIAL DUTIES NECESSARY TO ADMINISTER  
10 THIS PART VIII.

11 (B) (1) THE AFFIDAVITS AND DISCLOSURES REQUIRED UNDER THIS PART  
12 VIII SHALL BE FILED IN THE APPROPRIATE CASE FILE OF AN APPLICATION.

13 (2) THE COUNTY MANAGER, AT LEAST TWICE ANNUALLY, SHALL  
14 PREPARE A SUMMARY REPORT COMPILING ALL AFFIDAVITS AND DISCLOSURES THAT  
15 HAVE BEEN FILED IN THE APPLICATION CASE FILES.

16 (3) ALL SUMMARY REPORTS COMPILED UNDER PARAGRAPH (2) OF THIS  
17 SUBSECTION SHALL BE AVAILABLE TO MEMBERS OF THE PUBLIC ON WRITTEN  
18 REQUEST.

19 (4) ALL AFFIDAVITS, DISCLOSURES, AND ACCOMPANYING  
20 DOCUMENTATION REQUIRED UNDER THIS PART VIII SHALL BE IN THE FORM  
21 REQUIRED BY THE STATE ETHICS COMMISSION.

22 15-865.

23 (A) (1) THE STATE ETHICS COMMISSION OR ANOTHER AGGRIEVED PARTY  
24 OF RECORD MAY ASSERT AS PROCEDURAL ERROR A VIOLATION OF THIS PART VIII IN  
25 AN ACTION FOR JUDICIAL REVIEW OF THE GRANTING OF AN APPLICATION.

26 (2) IF THE COURT FINDS THAT A VIOLATION OF THIS PART VIII  
27 OCCURRED, THE COURT SHALL REVERSE AND REMAND THE CASE TO THE BOARD  
28 FOR RECONSIDERATION.

29 (B) (1) A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES THIS PART  
30 VIII IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO  
31 IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR  
32 BOTH.

33 (2) IF A PERSON SUBJECT TO A PENALTY UNDER PARAGRAPH (1) OF THIS  
34 SUBSECTION IS A BUSINESS ENTITY AND NOT A NATURAL PERSON, EACH MEMBER,  
35 OFFICER, OR PARTNER OF THE BUSINESS ENTITY WHO KNOWINGLY AUTHORIZED OR  
36 PARTICIPATED IN THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON

1 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR A FINE  
2 NOT EXCEEDING \$1,000 OR BOTH.

3           (3)       AN ACTION TAKEN IN RELIANCE ON AN OPINION OF THE STATE  
4 ETHICS COMMISSION MAY NOT BE DEEMED A KNOWING AND WILLFUL VIOLATION.

5       (C)       (1)       A PERSON WHO IS SUBJECT TO THIS PART VIII SHALL PRESERVE ALL  
6 BOOKS, PAPERS, AND DOCUMENTS NECESSARY TO COMPLETE AND SUBSTANTIATE  
7 ANY REPORTS, STATEMENTS, OR RECORDS REQUIRED TO BE MADE UNDER THIS PART  
8 VIII FOR 3 YEARS FROM THE DATE OF FILING THE APPLICATION.

9           (2)       THESE PAPERS AND DOCUMENTS SHALL BE AVAILABLE FOR  
10 INSPECTION ON REQUEST.

11       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 June 1, 2004.